

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Tehama)

THE PEOPLE,

Plaintiff and Respondent,

v.

MARK LEBORNE BELISLE, JR.,

Defendant and Appellant.

C086292, C087332

(Super. Ct. No. 17CR001414)

Appointed counsel for defendant Mark LeBorne Belisle, Jr., filed an opening brief that sets forth the facts of the case and asks this court to review the record to determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) After reviewing the entire record, we affirm the judgment.

I. BACKGROUND¹

As stipulated by the parties at defendant's original plea hearing, the facts are taken from the Tehama County Sheriff's Office crime report, summarized in the probation report as follows:

On May 29, 2017, defendant drove to a business that was in the process of being remodeled. The contractors were storing their equipment in a locked storage box. Defendant used his own pair of bolt cutters and a hammer to cut open the box and enter it. The business owner, H.S., and his associates interrupted the burglary when they drove up and saw defendant and the codefendant leaving the box. Defendant was carrying a six-pack of beer and a stereo. H.S. and his associates yelled at defendant and the codefendant, who ran to their vehicle. However, H.S. removed the keys from defendant's vehicle preventing him from driving away. Defendant fled, leaving the codefendant behind. A pry bar was discovered at defendant's car, along with the stolen beer, a stereo, and a rechargeable battery. Three syringes and a metal spoon were found inside a box in the codefendant's purse. There was cardboard covering the front and back license plates of defendant's car. (*Belisle, supra*, C085481, at p. 2.)

A sheriff's deputy went to defendant's home and spoke with defendant's mother, who was leaving to pick up defendant. The deputy then spoke by phone with defendant, who revealed he was hiding in a field. Defendant was located and found to be in possession of 0.86 grams of methamphetamine. H.S. identified defendant as the person who committed the burglary at his business. (*Belisle, supra*, C085481, at p. 2.)

Defendant was charged with burglary (Pen. Code, § 459) and possession of a controlled substance (Health & Saf. Code, § 11377, subd. (a)). He entered a negotiated plea of guilty to the burglary charge in exchange for dismissal of the drug possession

¹ The background is taken, in part, from our nonpublished opinion in *People v. Belisle* (July 23, 2018, C085481) [nonpub. opn.] (*Belisle*).

charge. (*Belisle, supra*, C085481, at pp. 2-3.) On July 17, 2017, the trial court placed defendant on three years of formal probation, subject to terms and conditions, including 120 days in county jail, minus 100 days of presentence custody credit. (*Id.* at p. 3.) Following a subsequent contested restitution hearing, defendant was ordered to make restitution to H.S. in the amount of \$22,839. (*Id.* at pp. 3-5.)

Defendant appealed the order of restitution. (*Belisle, supra*, C085481, at p. 5.)

On October 23, 2017, defendant admitted violating his probation by possessing firearms, ammunition, illegal drugs, and drug paraphernalia, and by failing to submit to a required drug test. The court sentenced him to eight months in state prison (consecutive to a two-year term in case No. 17CR002478), suspended execution of the sentence, and extended his probation to five years, subject to terms and conditions, including 30 days in county jail.

On March 26, 2018, defendant admitted violating his probation again by being discharged from his residential treatment program for failure to follow program rules. The court executed the previously suspended eight-month sentence to be served consecutive to the two-year sentence in case No. 17CR002478, for a combined term of two years eight months in state prison. The court awarded defendant 109 days of presentence custody credit (55 actual days plus 54 conduct credits) in addition to the 446 days previously awarded in case No. 17CR002478. The abstract of judgment included the previously imposed fees, fines, and restitution award.

Defendant filed a timely notice of appeal. He did not request a certificate of probable cause.

On July 23, 2018, this court reversed the trial court's restitution order and remanded for further proceedings. (*Belisle, supra*, C085481, at pp. 1, 12.)

II. DISCUSSION

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts and procedural history of the case and requests this court to

review the record and determine whether there are any arguable issues on appeal. (*People v. Wende, supra*, 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days from the date the opening brief was filed. More than 30 days have elapsed, and defendant has not filed a supplemental brief. Having undertaken an examination of the entire record pursuant to *Wende*, we find no arguable error that would result in a disposition more favorable to defendant. We therefore affirm the trial court's judgment.

III. DISPOSITION

The judgment is affirmed.

/S/

RENNER, J.

We concur:

/S/

ROBIE, Acting P. J.

/S/

DUARTE, J.